

**MEMORANDUM OF UNDERSTANDING  
POWERHOUSE/BIOMASS PROJECT**

This Memorandum of Understanding is executed on the date set forth below, and is made by and between:

- (i) **Gwitchyaa Zhee Corporation** (the "Corporation"), a corporation organized under the laws of the State of Alaska pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) ("ANCSA"), whose address is P.O. Box 329, Fort Yukon, AK 99740, and
- (ii) **Gwitchyaa Zhee Gwich'in Tribal Government** (the "Tribe"), the recognized Tribal Government for the Village of Fort Yukon, Alaska formed on January 2, 1940 under the Indian Reorganization Act of 1934, as amended, whose address is P.O. Box 126, Fort Yukon, AK 99740, and
- (iii) **The City of Fort Yukon** (the "City"), a municipal corporation, whose address is P.O. Box 269, Fort Yukon, AK 99740.

**WHEREAS** the Corporation is in the process of building a Powerhouse Facility and a Biomass Facility along with the requisite wood processing and storage facilities (the "facilities") to support economic development and reduce overall community heating fuel consumption in Fort Yukon; and

**WHEREAS** the new Powerhouse Facility will be owned by the Corporation and operated by GZ Utility Company ("the Utility"); and the Biomass Facility, wood processing, and wood storage facilities will be owned by the Corporation and operated by the newly formed GZ Heat Utility ("the Heat Utility");

**WHEREAS** the Utility and the Heat Utility are/will be subsidiaries of the Corporation, and the Corporation will enter into long-term use and operation agreements with both the Utility and the Heat Utility;

**WHEREAS** all parties to this agreement recognize that locating the Powerhouse and Biomass facilities in close proximity to one another will allow for beneficial use of diesel generator recovered heat, greatly increasing the efficiency and fuel savings of the district heating system;

**WHEREAS** the Tribe and the Corporation have previously entered into a Land Transfer Agreement (the "Land Transfer Agreement") recorded on August 22, 1994 at Book 878, Page 307, records of the Fairbanks Recording District, Fourth Judicial District, State of Alaska, through which the Corporation conveyed the title to

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certain lands which are most preferable for the location of the Powerhouse and Biomass Facilities to the Tribe;

**WHEREAS** the City and the Corporation along with Native Village of Fort Yukon entered into an ANCSA 14(c)(3) settlement agreement on March 7, 1996 which ("Settlement Agreement") was recorded on April 19, 1999, in the Fairbanks Recording District at Book 1135, Page 402. The agreement was modified by a Modification of Agreement (the "Modification") on May 11, 2011 which was recorded on May 18, 2011, in the Fairbanks Recording District as document 2011-008830-0. The Settlement Agreement provided that certain lands, including Lots 1-4 and 8-10 of Block 8, USS 2760 A & B, be conveyed to the City of Fort Yukon by the Corporation, and these lands are most preferable for the location of the Powerhouse and Biomass Facilities; and

**WHEREAS**, as part of the project, the district heating piping system will be located within the City's road rights-of-way, including but not limited to Hill Street, East Third Avenue, East First Avenue, Spruce Street, and adjacent streets and easements, and will require authorization by the City to construct, operate and maintain the system;

**WHEREAS** the Tribe, the City, and the Corporation now wish to enter into an agreement on the location of the Powerhouse and Biomass Facilities in order to advance the mutually beneficial project, to confirm all necessary land transfers, and ensure that continuous access to the facilities are provided;

Based upon the foregoing, the Corporation, the Tribe, and the City mutually agree as follows:

1. The Powerhouse and Biomass Facilities will be located on Tract A of in the Site Selection Document attached hereto and incorporated by reference. Tract A is comprised of the following parcels:

- a. Lots 1-5 and 8-10, Block 8, US Survey 2760 A & B; and
- b. Lots 1 and 2, Block 8A, US Survey 2760 A & B; and
- c. A portion of the unused right of way for East Fifth Avenue between Blocks 8 and 8A; and
- d. A portion of Lot 5, Section 7, Township 20 North, Range 12 East, Fairbanks Meridian.

2. The Tribe has agreed to transfer to the Corporation all parcels in Tracts B & C as shown on the Site Selection Document attached hereto for use in support of the facilities. Tracts B and C are more particularly described as follows:

- a. Tract B is a portion of Lot 5, Section 7, Township 20 North, Range 12 East, Fairbanks Meridian.

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b. Tract C is a portion of Lot 24, US Survey 7161.

3. The location of the facilities upon Tract A has been approved as the most preferable site by the City of Fort Yukon via Resolution 10-13 dated April 13, 2010 and the Corporation via Resolution 10-07 dated April 27, 2010. The location was proposed by the Tribe as the Secondarily Preferred Site through a draft Agreement in Principle on the Site Selection of the GZ Biomass/Powerhouse Project; however, no Resolution has been approved by the Tribe to this effect. All parties agree that Site must have accessing from Airport Road Easement, all heavy equipment access from Airport Road; however, small trucks, parking, etc. can be from Hill Street. Further, the site will be adequately fenced, a buffer zone type of vegetation 30' wide to screen facility, and reasonable efforts will be made to ensure low decibel levels for minimum noise pollution from the facilities.

4. Through its signature on this Agreement, the Tribe hereby agrees to execute a Resolution approving Tract A as an approved site for the Biomass/Powerhouse Project.

5. The Tribe, City, and Corporation through their signatures below additionally agree to the use of Tracts B and C in support of the facilities.

6. Block 8, U.S. Survey 2760 A & B is currently comprised of 10 lots, Lots 1-4 and 8-10 of which, although currently titled in the name of the Corporation, were included in the ANCSA 14(c)(3) Agreement from 1999 which states that the surface rights of these lots will be transferred to the City of Fort Yukon. As these lots are necessary for locating the Powerhouse and Biomass facility, and the City of Fort Yukon has approved this location for the facilities via Resolution 10-13 dated April 13, 2010, the City hereby agrees to execute all paperwork necessary to transfer the surface rights to these seven (7) lots to the Corporation in accordance with City code so the facilities may be constructed and operated thereon.

7. The ANCSA 14(c)(3) Agreement recorded in 1999 placed a restriction on the use of Block 8, Lots 1-4, and Lots 8-10, U.S. Survey 2760 A & B limiting the use to only residential, recreational, or agricultural purposes. By signing this Memorandum of Understanding, the City, Tribe, and Corporation hereby consent to the removal of these restrictions for these lots and agree to the construction and operation of the facilities thereon.

8. Additionally, Block 8, Lots 1-4 and 8-10 of U.S. Survey 2760 A & B were included in the Land Transfer Agreement between the Corporation and the Tribe which placed limitations on the transferability of these parcels; however, notwithstanding the provisions of the Land Transfer Agreement, the Tribe and the Corporation expressly agree that Lots 1-4 and 8-10 of Block 8, U.S. Survey 2760 A & B, shall be conveyed to the Corporation by special quitclaim deed, which deed will

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acknowledge that such action is being taken notwithstanding the restrictions on the right of the Tribe to convey any interest in the townships set forth in the Land Transfer Agreement. The purpose of such conveyance is to allow the Corporation to use these lots for the mutually beneficial facilities. Following the conclusion of the operation of the facilities as determined by the Corporation, or the abandonment of this Powerhouse/Biomass Project for more than six (6) consecutive months by the Corporation, or the incurable default of the Corporation in any of its contracts associated with or relating to this Powerhouse/Biomass Project as defined and implemented by the parties to these contracts, title to Lots 1-4 and 8-10 will revert back to the Tribe in accordance with the Land Transfer Agreement.

9. Block 8, Lots 5, 6, and 7, US Survey 2760 A & B are currently vested in the Corporation pursuant to a Yukon Title Company title report dated February 25, 2010, with an encumbrance from a 1983 Deed of Trust from the Corporation to several individuals doing business as Fort Yukon Utilities. This Deed of Trust has been satisfied, and by their signatures below, the City, Corporation, and Tribe agree to the execution and recording of a Satisfaction of Deed of Trust in the Fairbanks Recording District to ensure the Corporation has clear title to Block 8, Lots 5, 6, and 7, US Survey 2760 A & B.

10. Additionally, Block 8A, which is separated from Block 8 by an unused right of way for E. Fifth Street, will also serve as a location for the facilities. In order to secure site control for the project, the Corporation will have Block 8A re-platted to join Block 8, and the City, Corporation, and Tribe agree to execute all documentation necessary to ensure the Corporation has title to Lots 1 and 2, Block 8A and to effectuate a re-plat of Block 8A with Lots 1-5 & 8-10 of Block 8 for purposes of constructing and operating the facilities. Since dedicated rights of way are under the jurisdiction of the City of Fort Yukon as the municipal government, the City agrees to follow applicable ordinances and state law to vacate the unused right of way.

11. The City of Fort Yukon will issue easements, as necessary to provide authorization to construct, operate and maintain the district heating piping system within the City's rights of way. These easements will be issued in accordance with applicable City land ordinances.

12. The Tribe is presently the owner of record of Lot 5, Section 7, Township 20 North, Range 12 East, Fairbanks Meridian pursuant to a title report from Yukon Title Company dated August 18, 2011. The Corporation is presently the titleholder of record of Lot 24, US Survey 7161. However, both Lot 5 and Lot 24 are subject to the 1994 Land Transfer Agreement between the Tribe and the Corporation which provides for the joint management of the property. Therefore, the Tribe agrees to complete all documentation necessary to effectuate the transfer of both Lot 5, Section 7, and Lot 24, USS 7161 to the Corporation, to the extent the

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Tribe has an ownership interest therein. This transfer to the Corporation shall be by special quitclaim deed, which deed will acknowledge that such action is being taken notwithstanding the restrictions on the right of the Tribe to convey any interest in the townships set forth in the Land Transfer Agreement. The purpose of such conveyance is to allow the Corporation to use these tracts for the mutually beneficial facilities. Following the conclusion of the operation of the facilities as determined by the Corporation, or the abandonment of this Powerhouse/Biomass Project for more than six (6) consecutive months by the Corporation, or the incurable default of the Corporation in any of its contracts associated with or relating to this Powerhouse/Biomass Project as defined and implemented by the parties to these contracts, title to Tracts B and C will revert back to the Tribe in accordance with the Land Transfer Agreement.

13. Doyon Limited owns the subsurface rights to Lots 1-4 and 8-10, Block 8, U.S. Survey 2760 A&B, and may choose, via separate instrument, to transfer those subsurface rights to the Corporation during either the construction or operation of the facilities. Such transfer will occur solely between Doyon Limited and the Corporation.

14. The City and Tribe believe that it would be in their collective best interests as well as the best interests of the residents of Fort Yukon if the facilities were constructed and operated by the Corporation, and/or its subsidiaries, and hereby agree to the Corporation's construction and operation of the facilities.

15. The City and Tribe additionally agree to ensure access to the facilities is always available via public roadways, and to prevent and promptly remove any access obstructions that could impede operations of the facilities.

16. The parties hereto agree that the provisions of this Memorandum cannot be amended, modified, revised, revoked or otherwise changed in any manner except in writing.

17. Each of the persons signing on behalf of a party hereto represents and warrants that she or he has been duly authorized to execute this agreement on behalf of such party and does so with the full consent and approval of said party.

18. General Provisions:

a. Modification of Agreement: This Agreement may only be modified by a document in writing executed by all parties to the Agreement.

b. Entire Agreement: This Agreement embodies the entire agreement and understanding between parties and supercedes all prior agreements and understandings between all three parties relating to the subject matter thereof.

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**GWICHYAA ZHEE GWICH'IN TRIBAL GOVERNMENT**

By: Nancy James  
Name: [Signature]  
Title: [Signature]  
Date: 1-19-12

STATE OF ALASKA )  
 ) ss.  
FOURTH JUDICIAL DISTRICT )

The foregoing instrument was acknowledged before me this 19<sup>th</sup> day of January, 2012, by Nancy James, the 1<sup>st</sup> Chief, of Gwichyaa Zhee Gwich'in Tribal Government, a tribal entity formed under federal law, on behalf of the tribal entity.

(Seal)

**LINDA FIELDS**  
NOTARY PUBLIC  
State of Alaska

Gynder Tulch  
Notary Public in and for Alaska  
My Commission Expires: with office

## CITY OF FORT YUKON

By: Twila Strom  
Name: Twila Strom  
Title: Mayor  
Date: January 20, 2012

**ATTEST**

By: Linda Fields  
Name: Linda Fields  
Title: City Clerk  
Date: 1-20-12

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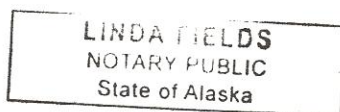
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STATE OF ALASKA                     )  
  ) ss.  
FOURTH JUDICIAL DISTRICT        )

The foregoing instrument was acknowledged before me this 20th day of January, 2012, by Twila Strom, the Mayor, of the City of Fort Yukon, an Alaska municipal corporation, on behalf of the municipal corporation.

(Seal)



Linda Fields  
Notary Public in and for Alaska  
My Commission Expires: 1-20-12 lcf  
with office

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FORT YUKON CHP SCAP EXHIBIT A

